

## AFFIDAVIT OF "DEPENDENCY" FOR TAX PURPOSES

Whether or not your Domestic Partner qualifies as a dependent for tax purposes, this form must be submitted to the EUTF before your Domestic Partner can be enrolled. You will sign this form in one of two places, depending on your Domestic Partner's status. Your Domestic Partner may also be required to sign this form.

EXPLANATION: Under Section 152 of the Internal Revenue Code, as it pertains to health benefit plans, an individual may qualify as a dependent of an employee for tax purposes if: (a) the employee provides over one-half of the individual's support for the employee's taxable year; (b) the individual has the same principal place of abode as the employee for the entire taxable year; (c) the individual is a member of the employee's household for the entire taxable year; and (d) the individual is citizen or national of the United States or a resident of the United States or a country contiguous to the United States.

We, \_\_\_\_\_ (the "Employee-Beneficiary") and \_\_\_\_\_  
(the "Domestic Partner") being duly sworn, under penalty of perjury, say:

1. For the current taxable year of the Employee-Beneficiary, over half of the Domestic Partner's support is received from the Employee-Beneficiary. [See the attached worksheet to determine whether this requirement is satisfied.]
2. For the current taxable year of the Employee-Beneficiary, the Domestic Partner has as his or her principal place of abode the home of the Employee-Beneficiary.
3. For the current taxable year of the Employee-Beneficiary, the Domestic partner is a member of the Employee-Beneficiary's household.
4. The Domestic Partner is a citizen of \_\_\_\_\_ (Country). If your answer is United States, skip to Question 8. If not, continue from question 5.

EXPLANATION: Under Section 7701(b) of the Internal Revenue Code, an alien is treated as a "resident" of the United States for tax purposes if such individual is lawfully admitted for permanent residence in the United States or meets the "substantial presence" test. To meet the "substantial presence" test, an individual must generally: (a) be present in the United States for at least 31 days during the current calendar year, and (b) the sum of the number of days on which the individual was present in the United States during the current calendar year and the 2 preceding calendar years (when multiplied by the applicable multipliers) equals or exceeds 183. The applicable multipliers are: 1 for the current year, 1/3 for the 1st preceding year, and 1/6 for the 2nd preceding year. The following individuals are not "residents" of the United States for tax purposes and, thus can never be "dependents" for tax purposes:

- A foreign government-related individual temporarily present in the United States on a diplomatic or consular visa, a full-time employee of an International organization, or a family member of such person.
- A teacher or trainee temporarily present in the United States.
- A student temporarily present in the United States.
- A professional athlete temporarily in the United States to compete in a charitable sports event.

5. The Domestic Partner is currently a "resident" of \_\_\_\_\_ (Country).



6. The Domestic Partner is currently lawfully present in the United States under the following type of visa: \_\_\_\_\_.
7. If the type of visa is "permanent resident" skip to Question 8. If not, answer the following questions.

The Domestic Partner meets the "substantial presence" test as the actual number of days the Domestic Partner has been lawfully present in the United States during the current year and the 2 preceding years is:

\_\_\_\_\_ (Number of days in USA, current year) x 1 = \_\_\_\_\_

\_\_\_\_\_ (Number of days in USA, 1<sup>st</sup> preceding year) x 1/3 = \_\_\_\_\_

\_\_\_\_\_ (Number of days in USA, 2<sup>nd</sup> preceding year) x 1/6 = \_\_\_\_\_

Total of above (must equal or exceed 183) = \_\_\_\_\_

EXPLANATION: Section 152 (f)(3) of the Internal Revenue Code provides that an individual is not a member of the taxpayer's household if, at any time during the taxable year of the taxpayer, the relationship between such individual and the taxpayer is a violation of local law.

8. Our state of permanent residence is \_\_\_\_\_.  
(State)
9. We understand that if the Domestic Partner is not a "dependent" of the Employee-Beneficiary, we may incur various tax liabilities in connection with obtaining health care coverage for the Domestic Partner. We therefore agree to notify the Hawaii Employer-Union Health Benefits Trust Fund (EUTF) within 10 days if there is any change in the Domestic Partner's status as a "dependent" of the Employee-Beneficiary. In addition, we shall indemnify and hold the EUTF harmless for any taxes, tax related penalties, or interest imposed upon the EUTF as a result of providing Domestic Partner coverage to us, including any taxes, tax related penalties, or interest imposed as a result of our taking the position the Domestic Partner is a "dependent" of the Employee-Beneficiary for tax purposes.
10. We agree that each of us is jointly and individually responsible for reimbursement of benefits and expenses, including interest, attorney's fees, and collection costs as a result of any false or misleading statement contained in this affidavit and related applications and submissions to the EUTF.

If your Domestic Partner is not a qualified dependent, STOP HERE, print your name, sign and date. Return form to your employer's personnel office. If your Domestic Partner is a qualified dependent, please continue to next page.

I have read this document and have determined that my domestic partner is not qualified as a dependent under section 152 of the Internal Revenue Code as described above.

Name (Print):

\_\_\_\_\_

Signature \_\_\_\_\_ date \_\_\_\_\_

This section to be completed in the presence of a Notary.

Each of us affirms under penalty of perjury under the laws of the State of Hawaii that we are the respective undersigned signatories, the statements in this affidavit are true to the best of our knowledge, and this affidavit and related application instruments are the free act and deed of each of us.

\_\_\_\_\_  
Employee-Beneficiary's Signature

\_\_\_\_\_  
Domestic Partner's Signature

\_\_\_\_\_  
Print Employee-Beneficiary's Name

\_\_\_\_\_  
Print Domestic Partner's Name

\_\_\_\_\_  
Employee-Beneficiary SS#

\_\_\_\_\_  
Domestic Partner's SS#

Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Subscribed and sworn to before me  
This\_\_\_\_\_ day of\_\_\_\_\_, 20\_\_\_\_

Subscribed and sworn to before me  
This\_\_\_\_\_ day of\_\_\_\_\_, 20\_\_\_\_

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Notary Public - State of Hawaii  
My commission expires: \_\_\_\_\_

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Notary Public - State of Hawaii  
My commission expires: \_\_\_\_\_

**WORKSHEET TO DETERMINE DEPENDENT STATUS**  
(Worksheet modeled after the Internal Revenue Service worksheet in Publication 17)

**IMPORTANT**

You can use this worksheet to determine whether your domestic partner qualifies as a dependent under Section 152 of the Internal Revenue Code (in general, your domestic partner must receive more than half of his or her support from you).

<b>Funds Belonging to your Domestic Partner</b>	
1. Total funds belonging to your domestic partner, including income received and amounts borrowed during the year, plus the amount in savings and other accounts at the beginning of the year.	\$
2. Amount of income used for support	\$
3. Amount of income used for other purposes	\$
4. Amount in savings and other accounts at the end of the year. (The total of lines 2, 3, and 4 should equal line 1)	\$
<b>Expenses for Entire Household (Where You and Your Domestic Partner Lived)</b>	
5. Lodging (complete either a or b)	
a. Rent paid	\$
b. If not rented, show fair rental value of home. If your domestic partner owned the home, include this amount on line 19.	\$
6. Food	\$
7. Utilities (heat, light, water, etc., not included on line 5a or 5b)	\$
8. Repairs (not included in 5a or 5b)	\$
9. Other (i.e., furniture). Do not include expenses of maintaining home (i.e., mortgage interest, real estate taxes, and insurance).	\$
10. Total household expenses (add lines 5 through 9)	\$
11. Total number of persons who lived in household	
<b>Expenses for Your Domestic Partner</b>	
12. Each person's part of the household expenses (line 10 divided by line 11)	\$
13. Clothing	\$
14. Education	\$
15. Medical and Dental	\$
16. Travel and recreation	\$
17. Other (please specify)	\$
18. Total cost of support for the year (Add lines 12 through 17)	\$
<b>Did You Provide More Than Half?</b>	
19. Amount your Domestic Partner provided for his/her own support (Line 2, plus line 5b if your domestic partner owned the home)	\$
20. Amount that others added to your domestic partner's support. Include amounts provided by state, local, and other welfare societies or agencies. Do not include any amounts included on line 1)	\$
21. Amount <b>you</b> provided for your domestic partner's support (line 18 minus lines 19 and 20)	\$
22. 50% of line 18	\$
Is line 21 more than line 22? <b>Yes.</b> Your domestic partner qualifies as a dependent under Section 152 of the IRC. You are able to deduct your domestic partner's portion of health plan premium contributions on a pre-tax basis. <b>No.</b> Your domestic partner does not qualify as a dependent. Your domestic partner's portion of health plan premium contributions must be deducted on an after-tax basis.	